

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

**FILED**

JUL 26 2011

U.S. CLERK'S OFFICE  
INDIANAPOLIS, INDIANA

BARBARA MCHALE,  Plaintiff,  v.  NCO FINANCIAL SYSTEMS, INC. and BOWMAN, HEINTZ, BOSCIA & VICIAN, P.C.,  Defendants.	CASE NO.  COMPLAINT  <b>1:11-cv-0994 SEB-DKL</b>
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**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for statutory and actual damages, punitive damages, costs of the action and a reasonable attorney's fee brought by Plaintiff Barbara McHale for violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., by Defendants.

**II. JURISDICTION**

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337.

**III. PLAINTIFF**

3. Plaintiff Barbara McHale is a natural person residing in Fishers, Indiana.

**IV. DEFENDANT**

4. Defendant NCO Financial Systems, Inc. (hereinafter "NCO") is a for-profit foreign corporation with its principal place of business in Norcross, Georgia.
5. At all relevant times herein, NCO was operating as a debt collector as defined by 15 U.S.C. § 1692a(6).
6. Defendant Bowman, Heintz, Boscia & Vician, P.C. (hereinafter "Bowman, Heintz") is a for-profit domestic professional corporation with its principal place of business in Lake County, Indiana.

7. At all relevant times herein, Bowman, Heintz was operating as a debt collector as defined by 15 U.S.C. § 1692a(6).

#### **V. STATEMENT OF FACTS**

8. On or about April 9, 2008, a lawsuit, Cause No. 29D05-0804-SC-684, was filed in Hamilton County, Indiana against Mrs. McHale seeking payment of an alleged Capital One credit card debt, account no. \*\*\*\*\*8062.
9. Cause No. 29D05-0804-SC-684 was dismissed on March 9, 2009 pursuant to Indiana Rule of Trial Procedure 41(E).
10. The dismissal was upon the merits and therefore with prejudice pursuant to Indiana Rule of Trial Procedure 41(B).
11. Defendants filed a second lawsuit over the same debt, account no. \*\*\*\*\*8062, in Hamilton County, Indiana, Cause No. 29C01-1105-CC-4809, on May 23, 2011.
12. Mrs. McHale hired an attorney, who filed a motion to dismiss Cause No. 29C01-1105-CC-4809 because it was barred by the doctrine of *res judicata*.
13. Defendants voluntarily moved to dismiss Cause No. 29C01-1105-CC-4809 on or about June 16, 2011, without prejudice.
14. Cause No. 29C01-1105-CC-4809 was dismissed by the court on June 16, 2011.

#### **VI. CLAIMS FOR RELIEF**

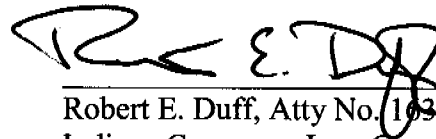
##### **A. Fair Debt Collection Practices Act - Defendants**

15. Plaintiff repeats, re-alleges and incorporates by reference paragraphs one through fourteen above.
16. Defendants violated the Fair Debt Collection Practices Act. These violations include, but are not limited to:
  - a. Attempting to collect a debt that Plaintiff does not owe, in violation of 15 U.S.C. § 1692d;
  - b. Falsely representing the amount and legal status of a debt, in violation of 15 U.S.C. § 1692e;
  - c. Attempting to collect an amount not expressly authorized by the agreement creating the debt or permitted by law, in violation of 15 U.S.C. § 1692f.

17. As a result of the foregoing violations of the Fair Debt Collection Practices Act, Defendants are liable to Plaintiff for her actual damages, statutory damages, punitive damages, costs, attorney fees and all other appropriate relief.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in her favor and against Defendants in an amount that will compensate her for her actual damages, statutory damages, punitive damages, costs, attorney fees and all other appropriate relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. E. Duff", is written over a horizontal line.

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